

Calendar No. 530

119TH CONGRESS
2D SESSION**S. 4974**

To amend the Federal Food, Drug, and Cosmetic Act with respect to food safety.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2026

Mr. TUBERVILLE (for himself, Mr. CASSIDY, and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

JULY 28, 2026

Reported by Mr. CASSIDY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to food safety.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “~~Making America’s~~
5 ~~Food Safer Act~~”.

1 **SEC. 2. EXPANSION OF THE ACCREDITED THIRD-PARTY**
 2 **CERTIFICATION PROGRAM.**

3 (a) **REVISED DEFINITIONS.**—Section 808(a) of the
 4 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
 5 384d(a)) is amended—

6 (1) by striking paragraph (6) and inserting the
 7 following:

8 “(6) **ELIGIBLE ENTITY.**—The term ‘eligible en-
 9 tity’ means a foreign or domestic entity, including a
 10 foreign or domestic facility subject to registration
 11 under section 415, in the food supply chain that
 12 chooses to be audited by an accredited third-party
 13 auditor or the audit agent of such accredited third-
 14 party auditor.”; and

15 (2) in paragraph (7)(B)—

16 (A) in clause (i), by striking “; or” and in-
 17 serting a semicolon;

18 (B) in clause (ii), by striking the period
 19 and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(iii) whether a facility is eligible to
 22 receive a food or facility certification for
 23 other purposes described in subsection
 24 (c)(2)(B)(ii).”.

25 (b) **REMOVING LIMITATIONS ON THE USE OF CER-**
 26 **TIFICATIONS.**—Section 808(c)(2) of the Federal Food,

1 Drug, and Cosmetic Act (21 U.S.C. 384d(e)(2)) is amend-
 2 ed—

3 (1) in subparagraph (A), by striking “food cer-
 4 tification, described in section 801(q), or facility cer-
 5 tification under section 806(a), as appropriate, to
 6 accompany each food shipment for import into the
 7 United States from an eligible entity” and inserting
 8 “food certification or facility certification for pur-
 9 poses described in subparagraph (B), as appro-
 10 priate,”; and

11 (2) by striking subparagraph (B) and inserting
 12 the following:

13 “(B) PURPOSE OF CERTIFICATION.—

14 “(i) IN GENERAL.—The Secretary
 15 shall use certification provided by accred-
 16 ited third-party auditors to—

17 “(I) determine, in conjunction
 18 with any other assurances the Sec-
 19 retary may require under section
 20 801(q), whether a food satisfies the
 21 requirements of such section; and

22 “(II) determine whether a facility
 23 is eligible to be a facility from which
 24 food may be offered for import under

1 the voluntary qualified importer pro-
 2 gram under section 806.

3 “(ii) OTHER CONSIDERATIONS.—The
 4 Secretary may consider the results of regu-
 5 latory audits and food or facility certifi-
 6 cations provided by accredited third-party
 7 auditors under this section in analyzing
 8 risks and prioritizing inspections and other
 9 regulatory activities, as appropriate for the
 10 protection of public health.”.

11 (e) TECHNICAL AND CONFORMING AMENDMENTS.—
 12 Section 808 of the Federal Food, Drug, and Cosmetic Act
 13 (21 U.S.C. 384d) is amended—

14 (1) in subsection (b)(1), by amending subpara-
 15 graph (A) to read as follows:

16 “(A) RECOGNITION OF ACCREDITATION
 17 BODIES.—Not later than 2 years after the date
 18 of enactment of the Making America’s Food
 19 Safer Act, the Secretary shall establish a sys-
 20 tem for the recognition of accreditation bodies
 21 that accredit third-party auditors to certify that
 22 eligible entities meet the applicable require-
 23 ments of this section.”;

24 (2) in subsection (c)—

~~(A) in paragraphs (1) and (2), by striking “(or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary)” each place it appears;~~

~~(B) in paragraph (2)(C)(i), by striking “food certification under section 801(q) or a facility certification described under this subparagraph (B)” and inserting “food certification or a facility certification described in this section”;~~

~~(C) in paragraph (6)(A)(i), by striking “food certified under section 801(q) or from a facility certified under paragraph (2)(B)” and inserting “food or facility certified under this section”;~~

~~(D) in paragraph (6)(C), by striking “requirements under section 801(q), of certifying the food, or the requirements under paragraph (2)(B) of certifying the entity” and inserting “requirements for certifying the food or facility under this section”; and~~

~~(E) in paragraph (7)(B)(i), by striking “, through direct accreditation under subsection (b)(1)(A)(ii) or”; and~~
~~(3) in subsection (d)—~~

~~(A) in paragraph (1), by striking “or”;~~

1 ~~(B)~~ at the end of paragraph ~~(2)~~, by strik-
 2 ing the period and inserting “; or”; and

3 ~~(C)~~ by adding at the end the following new
 4 paragraph:

5 “~~(3)~~ otherwise seeks certification for purposes
 6 of subsection ~~(c)(2)(B)(ii)~~.”.

7 **SEC. 3. SHARING FOOD SAFETY INFORMATION WITH STATE,**
 8 **LOCAL, TRIBAL, AND TERRITORIAL AUTHORI-**
 9 **TIES.**

10 ~~(a)~~ IN GENERAL.—Section 708 of the Federal Food,
 11 Drug, and Cosmetic Act (21 U.S.C. 379) is amended by
 12 adding at the end the following:

13 “~~(d)~~ SHARING FOOD SAFETY INFORMATION WITH
 14 STATE, LOCAL, TRIBAL, AND TERRITORIAL AUTHORI-
 15 TIES.—

16 “~~(1)~~ AUTHORIZATION.—Notwithstanding sec-
 17 tion 301(j) and any other law, regulation, or policy,
 18 the Secretary may share, with a State, local, Tribal,
 19 or territorial authority with counterpart functions
 20 related to the protection of public health, unredacted
 21 information in the possession of the Food and Drug
 22 Administration relating to any of the following:

23 “~~(A)~~ Foodborne illness surveillance data:

24 “~~(B)~~ Laboratory sampling testing informa-
 25 tion:

1 “(C) Inspectional information and results.

2 “(D) Distribution lists for recalls and out-
3 breaks.

4 “(E) Consumer complaints.

5 “(F) Any other information the Secretary
6 determines will assist such authority in pro-
7 tecting the public.

8 “(2) TIMING.—The Secretary may share infor-
9 mation pursuant to paragraph (1) as soon as is rea-
10 sonably practicable.

11 “(3) LIMITATION ON FURTHER DISCLOSURE.—
12 A State, local, Tribal, or Territorial authority in re-
13 ceipt of information provided by the Secretary under
14 this subsection shall not further disclose such infor-
15 mation without permission of the Food and Drug
16 Administration unless such authority determines
17 that disclosure of such information is necessary to
18 contain a foodborne illness outbreak, carry out a re-
19 call, or carry out other State enforcement activities.

20 “(4) EFFECT OF SUBSECTION.—Nothing in this
21 subsection affects the authority of the Secretary to
22 enter into any written agreement authorized by
23 other provisions of law to share confidential informa-
24 tion.”.

1 (b) ~~CONFORMING AMENDMENT.~~—The first sentence
 2 of section 301(j) of the Federal Food, Drug, and Cosmetic
 3 Act (~~21 U.S.C. 331(j)~~) is amended by striking the second
 4 period at the end.

5 **SEC. 4. DESTRUCTION OF CERTAIN REFUSED ARTICLES.**

6 Section 801 of the Federal Food, Drug, and Cosmetic
 7 Act (~~21 U.S.C. 381~~) is amended by adding at the end the
 8 following:

9 ~~“(v) ORDER TO DESTROY CERTAIN REFUSED ARTI-~~
 10 ~~CLES.—~~For any article that has been refused admission
 11 and is in violation of this Act, the Secretary of Health
 12 and Human Services may issue to the owner or consignee
 13 an order that the article shall be destroyed, without the
 14 opportunity to export, if the Secretary of Health and
 15 Human Services finds that the article presents a signifi-
 16 cant public health concern. Before issuing an order to de-
 17 stroy an article under this subsection, the Secretary of
 18 Health and Human Services shall issue regulations pro-
 19 viding for notice and an opportunity to appear before the
 20 Secretary of Health and Human Services and introduce
 21 testimony on the order to destroy. The regulations shall
 22 provide that prior to the destruction of any such article,
 23 appropriate due process is available to the owner or con-
 24 signee seeking to challenge the Secretary of Health and
 25 Human Service’s decision to order destruction. Such proc-

1 ess may be combined with the notice and opportunity to
 2 appear before the Secretary and introduce testimony on
 3 the refusal as long as appropriate notice is provided to
 4 the owner or consignee about the potential order to de-
 5 stroy. The Secretary of the Treasury shall cause the owner
 6 or consignee to complete the destruction of any such arti-
 7 cle within 90 days of the order for destruction and the
 8 owner or consignee shall be responsible for the costs of
 9 such destruction.”.

10 **SECTION 1. SHORT TITLE.**

11 *This Act may be cited as the “Making America’s Food*
 12 *Safer Act”.*

13 **SEC. 2. EXPANSION OF THE ACCREDITED THIRD-PARTY**
 14 **CERTIFICATION PROGRAM.**

15 (a) *REVISED DEFINITIONS.*—Section 808(a) of the
 16 *Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384d(a))*
 17 *is amended—*

18 (1) *by striking paragraph (6) and inserting the*
 19 *following:*

20 “(6) *ELIGIBLE ENTITY.*—The term ‘eligible enti-
 21 ty’ means a foreign or domestic entity, including a
 22 foreign or domestic facility subject to registration
 23 under section 415, in the food supply chain that
 24 chooses to be audited by an accredited third-party

1 *auditor or the audit agent of such accredited third-*
 2 *party auditor.”; and*

3 *(2) in paragraph (7)(B)—*

4 *(A) in clause (i), by striking “; or” and in-*
 5 *serting a semicolon;*

6 *(B) in clause (ii), by striking the period*
 7 *and inserting “; or”; and*

8 *(C) by adding at the end the following:*

9 *“(iii) whether a facility is eligible to*
 10 *receive a food or facility certification for*
 11 *other purposes described in subsection*
 12 *(c)(2)(B)(ii).”.*

13 *(b) REMOVING LIMITATIONS ON THE USE OF CERTIFI-*
 14 *CATIONS.—Section 808(c)(2) of the Federal Food, Drug,*
 15 *and Cosmetic Act (21 U.S.C. 384d(c)(2)) is amended—*

16 *(1) in subparagraph (A), by striking “food cer-*
 17 *tification, described in section 801(q), or facility cer-*
 18 *tification under section 806(a), as appropriate, to ac-*
 19 *company each food shipment for import into the*
 20 *United States from an eligible entity” and inserting*
 21 *“food certification or facility certification for pur-*
 22 *poses described in subparagraph (B), as appro-*
 23 *priate,”; and*

24 *(2) by striking subparagraph (B) and inserting*
 25 *the following:*

1 “(B) *PURPOSE OF CERTIFICATION.*—

2 “(i) *IN GENERAL.*—*The Secretary shall*
 3 *use certification provided by accredited*
 4 *third-party auditors to—*

5 “(I) *determine, in conjunction*
 6 *with any other assurances the Sec-*
 7 *retary may require under section*
 8 *801(q), whether a food satisfies the re-*
 9 *quirements of such section; and*

10 “(II) *determine whether a facility*
 11 *is eligible to be a facility from which*
 12 *food may be offered for import under*
 13 *the voluntary qualified importer pro-*
 14 *gram under section 806.*

15 “(ii) *OTHER CONSIDERATIONS.*—*The*
 16 *Secretary may consider the results of regu-*
 17 *latory audits and food or facility certifi-*
 18 *cations provided by accredited third-party*
 19 *auditors under this section in analyzing*
 20 *risks and prioritizing inspections and other*
 21 *regulatory activities, as appropriate for the*
 22 *protection of public health.”.*

23 (c) *TECHNICAL AND CONFORMING AMENDMENTS.*—
 24 *Section 808 of the Federal Food, Drug, and Cosmetic Act*
 25 *(21 U.S.C. 384d) is amended—*

1 (1) in subsection (b)(1)(A)—

2 (A) by striking “ACCREDITATION BODIES”
3 in the subparagraph heading and all that follows
4 through “Not later than” in clause (i) and in-
5 serting the following: “ACCREDITATION BODIES—
6 Not later than”; and

7 (B) by striking clause (ii);

8 (2) in subsection (c)—

9 (A) in paragraphs (1) and (2), by striking
10 “*(or, in the case of direct accreditation under*
11 *subsection (b)(1)(A)(ii), the Secretary)*” each
12 place it appears;

13 (B) in paragraph (2)(C)(i), by striking
14 “*food certification under section 801(q) or a fa-*
15 *cility certification described under this subpara-*
16 *graph (B)*” and inserting “*food certification or*
17 *a facility certification described in this section*”;

18 (C) in paragraph (6)(A)(i), by striking
19 “*food certified under section 801(q) or from a fa-*
20 *cility certified under paragraph (2)(B)*” and in-
21 serting “*food or a facility certified under this*
22 *section*”;

23 (D) in paragraph (6)(C), by striking “*re-*
24 *quirements under section 801(q), of certifying the*
25 *food, or the requirements under paragraph*

1 (2)(B) of certifying the entity” and inserting
 2 “requirements for certifying the food or facility
 3 under this section”; and

4 (E) in paragraph (7)(B)(i), by striking “,
 5 through direct accreditation under subsection
 6 (b)(1)(A)(ii) or”; and
 7 (3) in subsection (d)—

8 (A) in paragraph (1), by striking “or”; and
 9 (B) at the end of paragraph (2), by striking
 10 the period and inserting “; or”; and

11 (C) by adding at the end the following new
 12 paragraph:

13 “(3) otherwise seeks certification for purposes of
 14 subsection (c)(2)(B)(ii).”.

15 **SEC. 3. SHARING FOOD SAFETY INFORMATION WITH STATE,**
 16 **LOCAL, TRIBAL, AND TERRITORIAL AUTHORI-**
 17 **TIES.**

18 (a) *IN GENERAL.*—Section 708 of the Federal Food,
 19 Drug, and Cosmetic Act (21 U.S.C. 379) is amended by
 20 adding at the end the following:

21 “(d) *SHARING FOOD SAFETY INFORMATION WITH*
 22 *STATE, LOCAL, TRIBAL, AND TERRITORIAL AUTHORI-*
 23 *TIES.*—

24 “(1) *AUTHORIZATION.*—Notwithstanding section
 25 301(j) and any other law, regulation, or policy, the

1 *Secretary may share, with a State, local, Tribal, or*
 2 *territorial authority with counterpart functions re-*
 3 *lated to the protection of public health, unredacted in-*
 4 *formation in the possession of the Food and Drug Ad-*
 5 *ministration relating to any of the following:*

6 *“(A) Foodborne illness surveillance data.*

7 *“(B) Laboratory sampling testing informa-*
 8 *tion.*

9 *“(C) Inspectional information and results.*

10 *“(D) Distribution lists for recalls and out-*
 11 *breaks.*

12 *“(E) Consumer complaints.*

13 *“(F) Any other information the Secretary*
 14 *determines will assist such authority in pro-*
 15 *tecting the public.*

16 *“(2) TIMING.—The Secretary may share infor-*
 17 *mation pursuant to paragraph (1) as soon as is rea-*
 18 *sonably practicable.*

19 *“(3) LIMITATION ON FURTHER DISCLOSURE.—A*
 20 *State, local, Tribal, or Territorial authority in receipt*
 21 *of information provided by the Secretary under this*
 22 *subsection shall not further disclose such information*
 23 *without permission of the Food and Drug Adminis-*
 24 *tration unless such authority determines that disclo-*
 25 *sure of such information is necessary to contain a*

1 *foodborne illness outbreak, carry out a recall, or carry*
 2 *out other State enforcement activities.*

3 “(4) *EFFECT OF SUBSECTION.*—*Nothing in this*
 4 *subsection affects the authority of the Secretary to*
 5 *enter into any written agreement authorized by other*
 6 *provisions of law to share confidential information.*

7 “(e) *INFORMATION DISCLOSURE DURING FOOD SAFE-*
 8 *TY INCIDENTS.*—*The Secretary is authorized to disclose*
 9 *commercial information obtained from a person that is pro-*
 10 *tected under section 1905 of title 18, United States Code,*
 11 *when the disclosure of such information advances public*
 12 *health protection during a food safety incident, including*
 13 *a foodborne illness outbreak, an investigation related to con-*
 14 *taminated food, or a food recall.”.*

15 “(b) *CONFORMING AMENDMENT.*—*The first sentence of*
 16 *section 301(j) of the Federal Food, Drug, and Cosmetic Act*
 17 *(21 U.S.C. 331(j)) is amended—*

18 (1) *by inserting “to a State, local, Tribal, or ter-*
 19 *ritorial authority as specified in section 708(d),”*
 20 *after “of the Department,”; and*

21 (2) *by striking the second period at the end.*

22 **SEC. 4. DESTRUCTION OF CERTAIN REFUSED ARTICLES.**

23 *Section 801 of the Federal Food, Drug, and Cosmetic*
 24 *Act (21 U.S.C. 381) is amended by adding at the end the*
 25 *following:*

1 “(v) *ORDER TO DESTROY CERTAIN REFUSED ARTI-*
2 *CLES.—*

3 “(1) *IN GENERAL.—For any article that has*
4 *been refused admission and is in violation of this Act,*
5 *the Secretary of Health and Human Services may*
6 *issue to the owner or consignee an order that the arti-*
7 *cle shall be destroyed, without the opportunity to ex-*
8 *port, if the Secretary of Health and Human Services*
9 *finds that the article presents a significant public*
10 *health concern. Before issuing an order to destroy an*
11 *article under this subsection, the Secretary of Health*
12 *and Human Services shall provide for notice and an*
13 *opportunity to appear before the Secretary of Health*
14 *and Human Services and introduce testimony on the*
15 *order to destroy. The Secretary of Health and Human*
16 *Services may combine the opportunity to appear be-*
17 *fore the Secretary and the opportunity to introduce*
18 *testimony into a single proceeding with respect to an*
19 *article. The regulations under paragraph (2) shall*
20 *provide that prior to the destruction of any such arti-*
21 *cle, appropriate due process is available to the owner*
22 *or consignee seeking to challenge the decision of the*
23 *Secretary of Health and Human Services to order de-*
24 *struction. Such process may be combined with the no-*
25 *tice and opportunity to appear before the Secretary*

1 *and introduce testimony on the refusal as long as ap-*
2 *propriate notice is provided to the owner or consignee*
3 *about the potential order to destroy. The Secretary of*
4 *the Treasury shall cause the owner or consignee to*
5 *complete the destruction of any such article within 90*
6 *days of the order for destruction and the owner or*
7 *consignee shall be responsible for the costs of such de-*
8 *struction.*

9 “(2) *REGULATIONS.*—

10 “(A) *PROPOSED.*—Not later than 18 months
11 *after the date of enactment of the Making Amer-*
12 *ica’s Food Safer Act, the Secretary of Health*
13 *and Human Services shall issue proposed regula-*
14 *tions to implement paragraph (1), including a*
15 *framework for due process, allowing for notice*
16 *and comment on such proposed regulations.*

17 “(B) *FINAL.*—Not later than 1 year after
18 *the issuance of the proposed regulations under*
19 *subparagraph (A), the Secretary of Health and*
20 *Human Services shall promulgate final regula-*
21 *tions to implement paragraph (1).*

22 “(3) *EXCEPTIONS.*—With respect to importation
23 *by an individual of a prescription drug that is not*
24 *a controlled substance pursuant to section 804(j) and*
25 *in a manner that is consistent with personal or*

1 *household use, the authority provided under para-*
2 *graph (1) shall not apply.*

3 “(4) *CLARIFICATION.—For purposes of this sec-*
4 *tion, a prescription drug described in paragraph (3)*
5 *that is imported as described in such paragraph shall*
6 *not be considered a ‘significant public health con-*
7 *cern’.*”.

Calendar No. 530

119TH CONGRESS
2^D Session

S. 4974

A BILL

To amend the Federal Food, Drug, and Cosmetic
Act with respect to food safety.

JULY 28, 2026

Reported with an amendment